

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DAVID LEE PITTMAN, #425377

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:08cv672-HSO-JMR

JERRY COOKSEY and CHARLES BRADEN

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
GRANTING THE PARTIES' MOTIONS TO DISMISS**

This cause comes before the Court on the Report and Recommendation [42] of Chief United States Magistrate Judge John M. Roper, entered in this cause on January 8, 2010. Magistrate Judge Roper reviewed Defendant Jerry Cooksey's Motion to Dismiss [21] filed on March 3, 2009, Defendant Charles Braden's Motion to Dismiss [37] filed December 8, 2009, and Plaintiff David Lee Pittman's Voluntary Motion to Dismiss [39] filed December 29, 2009, as well as the related briefing, and determined that the Motions all should be granted, and that Plaintiff's claims should be dismissed with prejudice to their being asserted again until the *Heck v. Humphrey*, 512 U.S. 477 (1994), conditions are met. See Report and Recommendation, at p. 12.

A copy of the Report and Recommendation was sent to Plaintiff at his last known address by certified mail, return receipt requested, and delivery was accepted [43] on January 11, 2010. Plaintiff did not file an objection to the Report and Recommendation. After review of the record, the Court, being fully advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [42] of Chief United States Magistrate Judge John M. Roper, entered in this cause on January 8, 2010, should be, and the same hereby is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant Jerry Cooksey's Motion to Dismiss [21] filed on March 3, 2009, Defendant Charles Braden's Motion to Dismiss [37] filed December 8, 2009, and Plaintiff David Lee Pittman's Voluntary Motion to Dismiss [39] filed December 29, 2009, should all be and hereby are **GRANTED**, and the claims against Defendants are hereby **DISMISSED WITH PREJUDICE to the claims being reasserted, until such time as the *Heck* conditions are met.** A separate judgment will be entered herein in accordance with this Order, as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED, this the 1st day of February, 2010.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE